

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Decided on: 4th September, 2019

+ **CS(COMM) 285/2019**

AKTIEBOLAGET VOLVO & ORS.

..... Plaintiff

Represented by: Ms. Vaishali Mittal, Ms. Vrinda
Gambhir, Advs.

versus

VOLVO JEANS & ORS

..... Defendant

Represented by: D-2,3&4 in person.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

MUKTA GUPTA, J. (ORAL)

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1. Defendants No.1 to 4 have been served. Defendant No.2, 3 & 4 are present in Court.
2. Defendant No.2 states that he is the father of defendant No.3 and 4 and that defendant No.2 along with defendant No.3 and 4 were doing the business of selling Jeans which were purchased readymade from other persons/ entities after labelling them as M.S. VOLVO JEANS, the impugned mark used by the defendants. Defendant No.2 states that defendant No.1 is not a legal entity, as it is neither any company nor a proprietorship firm nor a partnership firm much less a registered proprietorship/ partnership firm. He states that he was using M.S. VOLVO JEANS just as a trading style.

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3. Defendant Nos.2, 3 & 4 have handed-over their respective affidavits which are taken on record. As regards identification of defendant Nos.2, 3 & 4 copies of their Adhaar Cards have also been placed on record along with the affidavits.
4. Defendant Nos.2,3&4 in the affidavits which have been handed-over and taken on record state that in future they will neither manufacture, use, sell, offer for sale, distribute, issue to the public, advertise for sale, import or export any goods bearing the mark or affixing labels thereon namely, VOLVO JEANS, M.S. VOLVO JEANS, M.S. VOLVO JEANS & CASUAL, VOLVO JNS etc. as noted in Paras 3 (c), (d), (e) & (f) of their affidavits.
5. As per the three affidavits the name of enterprise of defendant No.2, 3 & 4 has now been changed to M/s. JAM JAM JEANS and defendant No.2 has filed a new trademark application bearing No. 3411382 for registration of the mark JAM JAM under Clause 25 before the Registrar of Trademarks.
6. Defendant No.2 has undertaken that in future he would carry out his business activities under the mark JAM JAM as reflected in Para 3 (g) & (h) of the three affidavits. Defendant No.2 further states that the contents of the affidavit were read out and explained to him in vernacular before he signed the same.
7. Defendant No.2,3&4 say that they would destroy the infringing labels seized by the Local Commissioner as also remove the infringing labels from all the impugned products which were seized under the mark VOLVO JEANS, VOLVO JNS within 7 days.

8. In view of these affidavits placed on record by defendants No.2,3&4, the suit of the plaintiff is decreed in terms of prayer (a), (b), (c) & (d).

9. Learned counsel for the plaintiff on instructions gives up the prayer (e), (g) & (h) in the suit. As regards prayer (f) is concerned, as noted in the affidavit of defendants No.2, 3 & 4, they would destroy the packaging/ labels/ wrappers/ stickers under the trademark and trade name of the plaintiff in the presence of the plaintiff's representative within one week.

10. Suit is accordingly disposed of.

11. Since the suit has been decided even before issues have been settled, Court fees under Section 16A of the Court Fees Act be returned to the plaintiff. Registry will issue a necessary certificate in this regard.

I.A. 7978/2019 (u/O 39 R 1&2 CPC)

Dismissed as infructuous.

SEPTEMBER 04, 2019
'ga'

(MUKTA GUPTA)
JUDGE